



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/701,237	11/04/2003	Douglas S. Martin	33583US2	5260
38598	7590	08/23/2005	EXAMINER	
ANDREWS KURTH L.L.P. 1701 PENNSYLVANIA AVENUE, N.W. SUITE 300 WASHINGTON, DC 20006				HUSON, MONICA A
		ART UNIT		PAPER NUMBER
		1732		

DATE MAILED: 08/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/701,237	MARTIN, DOUGLAS S.
	Examiner	Art Unit
	Monica A. Huson	1732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 10 June 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 1-11 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 12-16 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 04 November 2003 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

DETAILED ACTION

This office action is in response to the Amendment filed 10 June 2005.

The previous rejections are withdrawn, as necessitated by applicant's amendment.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over McClean et al. (U.S. Patent 6,394,323), in view of Learn et al. (U.S. Patent 6,287,106). Regarding Claim 12, McClean et al., hereafter "McClean," show that it is known to carry out a method of making a one-piece dispensing closures by injection molding (Column 2, lines 45-46), wherein each aperture has a tapered surface boundary such that the aperture is smaller in size with distance from an upper side of the end wall whereby the plug is adapted to avoid frictional resistance with the aperture until a respective flap is near its closed position (Figure 3, element 30). McClean does not show the specifics of the injection molding operation. Learn et al., hereafter "Learn," show that it is known to carry out a method of making one-piece dispensing closures (Abstract) comprising providing tooling elements that, when closed, collectively form a mold cavity defining the shape of the closure (Column 4, lines 9-34), the tooling elements being assembled on one or the other of a pair of platens, one platen being movable relative to the other, the cavity

being arranged to form an end wall with at least one dispensing aperture and at least one flap integrally hinged to the end wall and having a plug registerable with each aperture as a pair when the flap is closed over the end wall (Figure 6; Column 4, lines 9-18; Column 8, lines 16-63), each aperture and plug pair being formed by tooling elements on a common platen whereby precise location of each plug with respect to its paired aperture is achieved (Figure 6; Column 4, lines 9-34; Column 8, lines 16-63). Learn and McClean are combinable because they are concerned with a similar technical field, namely, methods of making closure caps. It would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made to use Learn's specific molding details during the making of McClean's closure cap in order to carry out the manufacturing process as efficiently as possible.

Regarding Claim 13, McClean shows the process as claimed as discussed in the rejection of Claim 12 above, but he does not show specific mold cavity details. Learn shows that it is known to carry out a method wherein the mold cavity tooling elements are configured to produce a touch seal between the plug and aperture (Figure 8). It would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made to use Learn's specific molding details during the making of McClean's closure cap in order to carry out the manufacturing process as efficiently as possible.

Regarding Claim 14, McClean shows the process as claimed as discussed in the rejection of Claim 12 above, but he does not show specific mold cavity details. Learn shows that it is known to carry out a method wherein the mold cavity tooling elements are configured to form the plug or plugs as thin wall hollow structures open at ends distal from the respective flap or flaps (Figures 6-8). It would have been *prima facie* obvious to one of ordinary skill in the art at

the time the invention was made to use Learn's specific molding details during the making of McClean's closure cap in order to carry out the manufacturing process as efficiently as possible.

Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over McClean and Learn, as applied to claim 12 above, further in view of Bolen, Jr. et al. (U.S. Patent 4,993,606).

Regarding Claim 15, McClean shows the process as claimed as discussed in the rejection of Claim 12 above, but he does not show depending catches from the flap. Bolen, Jr. et al., hereafter "Bolen, Jr.," show that it is known to carry out a method of making a closure cap wherein the flap is releasably held in closed positions by depending catches that interact with complimentary receiving areas on the end wall (Figure 6, element 39). Bolen, Jr. and McClean are combinable because they are concerned with a similar technical field, namely, methods of making closure caps. It would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made to include Bolen, Jr.'s catches during the making of McClean's and Learn's closure caps to insure proper adherence of the flap over the aperture.

Regarding Claim 16, McClean shows the process as claimed as discussed in the rejection of Claim 12 above, but he does not show slightly diverging plug walls. Bolen, Jr. shows that it is known to carry out a method of making a closure wherein the plug has thin plug walls, and wherein the exterior surfaces of the plug walls are slightly divergent, having interior and exterior tapers (Figure 6, elements 38, 39). It would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made to include Bolen, Jr.'s plug features during the making of McClean's and Learn's closure caps in order to insure proper function of the plug.

Response to Arguments

Applicant's arguments with respect to claims 12-14 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Monica A. Huson whose telephone number is 571-272-1198. The examiner can normally be reached on Monday-Friday 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mike Colaianni can be reached on 571-272-1196. The fax phone number for the organization where this application or proceeding is assigned is ~~703-872-9306~~ 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mah

Mah

August 9, 2005

Michael P. Colaianni

**MICHAEL P. COLAIANNI
SUPERVISORY PATENT EXAMINER**